

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA :
: CASE NO. CR-1-06-079
v. :
: (Senior Judge Spiegel)
:
GARCIA LABOR COMPANY, INC. :
and GARCIA LABOR COMPANY :
OF OHIO, INC. : **STATEMENT OF FACTS**

Since about 1993, Defendant Garcia Labor Company, Inc. has been a labor leasing firm located in Morristown, Tennessee. Beginning in December 1999, Defendant Garcia Labor Company, Inc. contracted with ABX Air, Inc., a cargo transportation company which operates an airline providing package sorting, handling, and line-haul services within the United States using its airport facility located in Wilmington, Ohio ("Wilmington Air Park"). Defendant Garcia Labor Company, Inc., and later, Garcia Labor Company of Ohio, Inc. (hereinafter referred to as "Defendants"), contracted to provide temporary workers to ABX Air, Inc. to sort freight in ABX Air, Inc.'s sort and ground transportation operations at the Wilmington Air Park from 1999 until January 2005.

The Defendants' workforce of temporary laborers, including the workers assigned to sort freight at ABX Air, Inc., was almost entirely made up of Hispanic workers of Mexican origin who, for the most part, did not read, write, or speak English. Until at least mid-2003, applicants filled out I-9 forms which were pre-printed to list two specific forms of identification: a Resident Alien card and a Social Security card.

From December 1999 until January 2005, Defendants, through their representatives, recklessly disregarded the fact that virtually all of Defendants' employees were not authorized to work in the United States. Defendants, through their representatives, along with their co-conspirators, agreed to hire such workers in reckless disregard of the fact that the applicants presented fraudulent Resident Alien and Social Security cards. Defendants, through their representatives and their co-conspirators, had an understanding that as long as the applicants presented passable identification cards, they would be hired, despite facts which would lead a reasonable person to conclude that such workers were not legally present in the United States or authorized to work here.

Among other things, Defendants and their representatives commonly encountered Hispanic applicants who presented fraudulent identification. The Social Security Administration issued a number of notices in 2002, 2003, and 2004 in which hundreds of Hispanic workers employed by the Defendants were listed as using invalid Social Security account numbers. Despite such notices, Defendants, through their representatives and their co-conspirators, continued to employ these workers and took no substantive action to determine whether they were authorized to work in the United States.

Beginning in February 2004, ABX Air, Inc. began requiring Defendant Garcia Labor Company of Ohio, Inc. to provide five years of employment background information on each of its workers assigned to sort freight at ABX Air, Inc. Defendant Garcia Labor Company of Ohio, Inc.'s office manager assisted the Hispanic workers in supplying the requested information on its application forms to ABX Air, Inc., and representatives of Defendant Garcia Labor Company of Ohio, Inc. recklessly disregarded that such information was false or incorrect. On many of these applications, in response to the question (in Spanish) "Are you eligible to work in the United

States?", the Garcia worker answered "No", or crossed out "No" and wrote "Si", or provided no answer at all.

In addition, pursuant to the conspiracy, Defendants, through their representatives and their co-conspirators, took steps to provide transportation and housing, and to assist with check cashing for the Hispanic workers, the majority of whom had no drivers' licenses and lacked valid identification to cash their paychecks.

During the time period charged in Count 1 of the Indictment herein, pursuant to the conspiracy, hundreds of unauthorized alien workers were employed the Defendants.

In January 2005, the Transportation Security Administration, which has jurisdiction over the administration and operation of airports in the United States, conducted a regulatory compliance inspection of ABX Air, Inc. and the Wilmington Air Park. As a result of that inspection, ABX Air, Inc.'s contract with Defendant Garcia Labor Company of Ohio, Inc. was terminated after it was determined that virtually every one of its 400 workers were using an invalid or fraudulent Social Security account number.

GARCIA LABOR COMPANY, INC.
and
GARCIA LABOR COMPANY OF OHIO, INC.

Date: 9-27-06

by: Ricardo

AUTHORIZED REPRESENTATIVE